

<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	<b>ORDER TERMINATING PARENTAL RIGHTS (CHILD PROTECTIVE PROCEEDINGS)</b> ORDER ____ OF ____	<b>CASE NO. PETITION NO.</b>
Court address		Court telephone no.

1. In the matter of  
name(s), alias(es), DOB

2. Date of hearing: \_\_\_\_\_ Judge/Referee: \_\_\_\_\_ Bar no.

3. Removal date: \_\_\_\_\_ (specify for each child if different)

4. An adjudication was held and the child(ren) was/were found to come within the jurisdiction of the court.

5. A petition to terminate parental rights has been filed and notice of hearing on the petition was given as required by law.

6. Specific findings of fact and law regarding this proceeding have been made on the record or by separate written opinion of the court.

**THE COURT FINDS:**

7. ☐ a. Reasonable efforts were made to preserve and unify the family to make it possible for the child(ren) to safely return to the child(ren)'s home. Those efforts were unsuccessful.

☐ b. Reasonable efforts were not made to preserve and unify the family because it was previously determined in a prior court order to be detrimental to the child(ren)'s health and safety.

☐ c. Reasonable efforts were not required to preserve and reunify the family as determined in a prior court order.

8. There is clear and convincing evidence that a statutory basis exists for terminating the parental rights of

\_\_\_\_\_, parent(s) of the child(ren).  
Name(s) of parent(s)

☐ 9. The child(ren) are member(s) of or eligible for membership in an American Indian tribe or band. There is evidence beyond a reasonable doubt, including qualified expert witness testimony, that continued custody of the child(ren) by the parent(s) or Indian custodian is likely to result in serious emotional or physical damage to the child(ren).

**IT IS ORDERED:**

10. The parental rights of \_\_\_\_\_  
Name(s) of parent(s)

are terminated, and additional efforts for reunification of the child(ren) with the parent(s) shall not be made.

11. ☐ a. The child(ren) is/are continued in the temporary custody of this court and remain in placement with the Department of Human Services for care and supervision.

☐ b. The child(ren) is/are committed to the Department of Human Services, for permanency planning, supervision, care, and placement under MCL 400.203.

12. The Director of the Michigan Department of Human Services is appointed special guardian to receive any benefits now due or to become due the child(ren) from the government of the United States.

☐ 13. Other: (include reimbursement provisions as required by MCL 712A.18[2], attach separate sheet if necessary)

14. The court reserves the right to enforce payments of reimbursement that have accrued up to and including the date of this order.

15. A post-termination review hearing will be held \_\_\_\_\_  
Date

Date

Judge

**NOTE:** When parental rights are terminated, a permanency planning hearing must be held within 30 days unless a pre-termination permanency planning hearing had been held (form JC 64). If proper notice has already been given, the permanency planning hearing can be conducted immediately following the termination hearing. This is especially useful in obtaining a uniform date for future permanency planning hearings when parental rights have been terminated to more than one child and the removal dates of the children are different. Use form JC 63a.

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## Instructions for Using JC 63

- A** 2. The date of hearing is a key element because MCL 712A.19b requires that the court “issue an opinion or order regarding a petition for termination of parental rights within 70 days after the commencement of the initial proceeding.”
- B** 3. The removal date is prominently placed to make it clear when subsequent review hearings must occur.
- C** 5. Notice of the termination hearing is required pursuant to MCR 3.977(C), which requires it be provided pursuant to MCR 3.920 and MCR 3.921(B)(3). Those two rules require written notice to all interested parties at least 14 days before the hearing.
- D** 6. The requirement for a court to state its findings of fact and conclusions of law on the record or in writing comes from MCR 3.977(H). In addition, an order terminating parental rights may not be entered unless the court makes findings of fact, states its conclusions of law, and includes the statutory basis for the order. Because these types of proceedings involve specific and usually lengthy facts and conclusions of law, it is presumed that the findings and conclusions will be made on the record or as part of a separate written opinion, and not on the face of the order.
- E** 7. The first finding a court makes is whether reasonable efforts were made to preserve and unify the family, were not made, or were not required. This is not a requirement for termination, but MCL 712A.19a(2) requires that reasonable efforts to reunify the child and family be made in all cases unless aggravated circumstances are present.
- F** 8. Termination must be based on a finding by the court that there is clear and convincing evidence that grounds for such a termination exist. MCL 712A.19b(3).
- G** 9. Termination of parental rights for Indian children can only be found on the basis of evidence beyond a reasonable doubt that continued custody of the child by the parent or Indian custodian will likely result in serious emotional or physical damage to the child. MCR 3.980(D).
- H** 10. This provision requires the court to identify whose parental rights are terminated, and also order that additional efforts for reunification of the child and family not be made, unless termination of the parental rights is not in the child’s best interests. MCR 3.977(G)(3), MCL 712A.19b(5).
- I** 11. Once termination is ordered, the court must either retain the child in temporary custody of the court and remain under the care and supervision of DHS, or commit the child to DHS for permanency planning, supervision, care, and placement. MCL 712A.20.
- J** 15. This provision requires the court to schedule a post-termination review for a particular date. MCL 712A.19c requires a post-termination review within 91 days of the termination, and every 91 days thereafter for the first year. For a child in post-termination placement longer than a year, the post-termination reviews must occur at least every 182 days from the prior review. The statute also encourages combination of a post-termination review hearing with a permanency planning hearing. Use JC 76 for orders following post-termination review hearing, which also conveniently incorporates findings required for permanency planning hearings.

## Instructions for Using JC 63 (continued)

**Note:** Termination of parental rights at a hearing on a supplemental petition for termination of parental rights based on different circumstances

Pursuant to MCR 3.977(F), the court may act on a supplemental petition for termination of parental rights on the basis of new or different circumstances from the offense that led the court to take jurisdiction. The court must order termination of parental rights of a respondent and must order no additional efforts for reunification between the child and the respondent be made if:

1. The supplemental petition contains a request for termination of parental rights;
2. At the hearing on the supplemental petition, the court finds by clear and convincing legally admissible evidence that one or more of the facts alleged in the supplemental petition are true, and come within MCL 712A.19b(3).<sup>1</sup>

However, even if the case meets the above provisions, the court may choose not to terminate parental rights if it finds, by clear and convincing evidence, that termination of parental rights is not in the best interests of the child. This hearing must be held within 42 days after the filing of the supplemental petition. The court may extend this time period for an additional 21 days for good cause.

**Note:** Termination of parental rights at the initial disposition

Pursuant to MCR 3.977(E), the court must order termination of parental rights at the initial dispositional and must order no additional efforts for reunification between the child and the respondent be made if:

1. The original or amended petition contains a request for termination of parental rights;
2. At the trial or plea proceedings, the trier of fact finds by a preponderance of the evidence that one or more grounds for taking jurisdiction of the child have been established; and
3. At the initial disposition hearing, the court finds by clear and convincing legally admissible evidence that one or more of the facts alleged in the petition are true, and come within MCL 712A.19b(3).<sup>2</sup>

However, even if the case meets the above provisions, the court may choose not to terminate parental rights if it finds, by clear and convincing evidence, that termination of parental rights is not in the best interests of the child.

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<sup>1</sup> The two exceptions to this provision are MCL 712A.19b(3)(c)(i), which relates to the same conditions continuing to exist at least 182 days after the initial disposition, and would not be a different circumstance allowing for a supplemental petition for termination of parental rights; and MCL 712A.19b(3)(h), which allows for termination if the parent is imprisoned for such a time that the child will be deprived of a normal home for more than 2 years, the parent has not provided for the child's proper care and custody, and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

<sup>2</sup> The sole exception to this provision is MCL 712A.19b(3)(c), which allows for termination when the same conditions that led the court to take jurisdiction of the child continue to exist at least 182 days after the initial disposition. Since termination under this subsection could only occur 182 days after the initial disposition, it could never form the basis for termination at the initial disposition.